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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

C.D.,

Petitioner,

v.

THE SUPERIOR COURT OF KERN COUNTY,

Respondent;

KERN COUNTY DEPARTMENT OF HUMAN
SERVICES,

Real Party in Interest.

F059021

(Super. Ct. Nos. JD118892,
JD118893)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Jon E. Stuebbe, Judge.

C.D., in pro. per., for Petitioner.

No appearance for Respondent.

Theresa A. Goldner, County Counsel, and Mark L. Nations, Deputy County Counsel, for Real Party in Interest.

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*Before Vartabedian, A.P.J., Levy, J., and Cornell, J.

Petitioner in propria persona seeks an extraordinary writ (Cal. Rules of Court, rule 8.452 (rule 8.452) from respondent court's orders issued at a contested 12-month review hearing terminating reunification services and setting a Welfare and Institutions Code section 366.26¹ hearing as to her son O. and daughter E. We conclude her petition fails to comport with the procedural requirements of rule 8.452. Accordingly, we will dismiss the petition as facially inadequate.

STATEMENT OF THE CASE AND FACTS

Dependency proceedings were initiated in August 2008 when petitioner and E.'s father, engaged in domestic violence in O.'s presence. At the time, petitioner was on parole and had been convicted in 2002 and 2005 for assault with a deadly weapon. As a result of this latest incident, she was arrested for violating parole.

The Kern County Department of Human Services (department) took then six-year-old O. and two-month-old E. into protective custody and filed a dependency petition on their behalf. The children were placed together in foster care.

In October 2008, the juvenile exercised dependency jurisdiction over the children and ordered reunification services for petitioner and E.'s father. The whereabouts of O.'s father were and would remain unknown.

Petitioner remained incarcerated until April 2009. While incarcerated, she completed the parenting instruction component of her services plan. At the six-month review hearing in April 2009, the juvenile court continued reunification services until the 12-month review hearing which it set for October 2009.

By August 2009, petitioner had completed her reunification services, had obtained appropriate housing, and was receiving unsupervised visits with the children. In addition,

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

she had voluntarily entered into guided visitation to further improve her parenting skills. Bolstered by petitioner's progress, her attorney filed a section 388 petition with the juvenile court asking the court to place the children with her under family maintenance.

However, within days of the filing of the section 388 petition, police were dispatched to petitioner's residence for a domestic dispute involving petitioner and E.'s father. Each claimed to be the victim of the other and both had injuries. They were both arrested. At the request of petitioner's attorney, the juvenile court dismissed the section 388 petition.

In November 2009, the juvenile court conducted a contested 12-month review hearing on the department's recommendation the court terminate reunification services as to both parents and proceed to permanency planning. At the time, petitioner was in state prison with a projected release date of March 2010. Petitioner appeared through her attorney, having previously waived her appearance. At the conclusion of the hearing, the court followed the department's recommendations and set a section 366.26 hearing. This petition ensued.²

DISCUSSION

In her petition, petitioner seeks relief from the section 366.26 hearing and requests continued reunification services. She acknowledges she jeopardized reunification by violating her parole but claims she is now willing to comply in order to resume custody of her children. She informs this court she is enrolled in parenting classes and a conflict resolution group.

A lower court's judgment or order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Consequently, an "appellant must affirmatively demonstrate error by an adequate record." (*Bennett v. McCall* (1993) 19 Cal.App.4th

² E.'s father did not file a writ petition.

122, 127.) With respect to writ petitions challenging the setting of a section 366.26 hearing, rule 8.452 specifies, inter alia, that the writ petition must include a summary of the significant facts and identify contested legal points with citation to legal authority and argument. (Rule 8.452(b).) At a minimum, the writ petition must “adequately inform the court of the issues presented, point out the factual support for them in the record, and offer argument and authorities that will assist the court in resolving the contested issues.” (*Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, 583.)

Petitioner does not challenge the correctness of the juvenile court’s findings and orders at the setting hearing. Consequently, her petition fails to comport with rule 8.452 and warrants dismissal.

DISPOSITION

The petition for extraordinary writ is dismissed. This opinion is final forthwith as to this court.